

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

PLATINUM MANAGEMENT, LLC,

Plaintiff,

v.

ORDER

Civil File No. 11-3523 (MJD/JJG)

ELLIS CORPORATION and
LUDELL MANUFACTURING CO.,

Defendants.

Andrew Stephen Dosdall, Skjold Parrington, P.A.; Christopher C. Grecian and Christopher P. Parrington, Foley & Mansfield PLLP; and Patrick D. Boyle, Law Office of Patrick D. Boyle, Counsel for Plaintiff.

Brian K. LaFratta, Huck Bouma PC, and Michael S. Dove and Matthew C. Berger, Gislason & Hunter LLP, Counsel for Defendants.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeanne J. Graham dated May 8, 2012. Defendants filed objections to the Report and Recommendation.

Pursuant to statute, the Court has conducted a de novo review upon the record. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation of United States Magistrate

Judge Graham dated May 8, 2012. The Court has taken into account the new Declaration of Anthony Balthazor submitted by Defendants in connection with their objections. Balthazor avers that he will testify pursuant to a subpoena but will not voluntarily travel to Minnesota to provide testimony. Although this new information regarding one defense witness, whose relevance is subject to debate by the parties, does weigh in favor of transfer, the Court concludes that, based on the sound reasoning in the Report and Recommendation, overall, the relevant factors still weigh in favor of retaining this case in the District of Minnesota.

Accordingly, based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. The Court **ADOPTS** the Report and Recommendation of United States Magistrate Judge Jeanne Graham dated May 8, 2012 [Docket No. 39].
2. Defendants' Motion to Dismiss [Docket No. 5] is **DENIED**.
3. Defendants' Motion to Transfer Venue [Docket No. 17] is **DENIED**.

4. Plaintiff is allowed to file an Amended Complaint, within 30 days from the date of this Order, correcting its assertion for federal subject matter jurisdiction.

Dated: July 13, 2012

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court